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December 24, 2024

BY ECF AND EMAIL

Hon. Analisa Torres
United States District Court
500 Pearl Street
Courtroom 15D
New York, NY 10007-1312
Torres_NYSDChambers@nysd.uscourts.gov

Re: ***Michael DeFosse v. Edfinancial Services, LLC***, SDNY 24-cv-08520
– **Pre-motion letter re Defendant’s anticipated motion to compel Plaintiff to file his complaint**

Dear Judge Torres:

I represent Defendant Edfinancial Services, LLC (“Edfinancial”) in the above-referenced case. Pursuant to Section III(A) of Your Honor’s Individual Practices in Civil Cases, I write to address Edfinancial’s anticipated motion to compel plaintiff to file his complaint.

On August 9, 2024, Plaintiff’s counsel commenced this case in New York State Supreme Court, New York County, by filing a Summons with Notice without a complaint, as permitted under N.Y. C.P.L.R. 305(b). On October 9, 2024, the Summons with Notice was served on Edfinancial at its offices in Tennessee. On October 22, 2024, we filed and served on Plaintiff’s counsel Edfinancial’s Demand for Complaint pursuant to N.Y. C.P.L.R. 3012(b), requiring that Plaintiff serve his complaint within 20 days.

On November 8, 2024, we filed and served Edfinancial’s Notice of Removal of this case to this Court (ECF Doc. 1) based on federal question jurisdiction. Thereafter, Plaintiff’s counsel took the position that the removal of this case to this Court nullified Edfinancial’s Demand for Complaint, and he has refused to serve a complaint.

Edfinancial is a student loan servicer. According to Plaintiff’s Summons with Notice, he claims that Edfinancial violated the Fair Credit Reporting Act, specifically 15 U.S.C. § 1681s-

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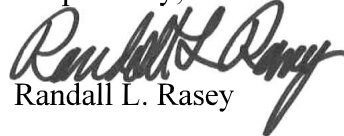
2(b), with respect to certain information concerning Plaintiff. Edfinancial has reviewed its records pertaining to Plaintiff and believes it has complied with applicable laws.

On November 6 and 15, 2024, my co-counsel, David Esquivel, Esq., and I conferred by telephone with Plaintiff's counsel, Adam Singer, Esq., in a good faith attempt to try to resolve this case without further litigation. Edfinancial voluntarily produced its relevant records pertaining to Plaintiff and other documents requested by Mr. Singer for his review. Mr. Singer has not provided any substantive response, and it appears that he intends to proceed to prosecute Plaintiff's lawsuit. Pursuant to this Court's pretrial scheduling order (ECF Doc. 6), the parties' deadline to file a joint letter and proposed case management plan is February 3, 2025.

Pursuant to Fed. R. Civ. P. 8(a), Edfinancial is entitled to "a short and plain statement of the claim showing that [Plaintiff] is entitled to relief". Plaintiff's Summons with Notice does not contain sufficient information to show a plausible basis for the relief he purportedly seeks from Edfinancial. We respectfully ask the Court to compel Plaintiff's counsel to file and serve his complaint showing why he contends he is entitled to any relief from Edfinancial.

Thank you for the Court's consideration.

Respectfully,


Randall L. Rasey

CC: Adam G. Singer, Esq.
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Counsel for Plaintiff

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Co-counsel for Defendant

GRANTED. By **January 30, 2025**, Plaintiff shall file his complaint.

SO ORDERED.

Dated: January 6, 2025
New York, New York



ANALISA TORRES
United States District Judge